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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,837	10/24/2003	James A. Gavney JR.	JAG-00113	9227
28960	7590	05/16/2006	EXAMINER	
HAVERSTOCK & OWENS LLP 162 NORTH WOLFE ROAD SUNNYVALE, CA 94086			CHIN, RANDALL E	
			ART UNIT	PAPER NUMBER
			1744	
DATE MAILED: 05/16/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/692,837

Applicant(s)

GAVNEY ET AL.

Examiner

Randall Chin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,6,12,14,16,19,20 and 25-33 is/are pending in the application.
- 4a) Of the above claim(s) 20,27 and 30 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,4,6,12,14,16 and 19 is/are allowed.
- 6) ☒ Claim(s) 25,26,28,29 and 31-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claim 20 is being withdrawn from consideration as not readable on the elected species of Figs. 1B and 5A since claim 20, lines 14-17 recites "and bristles protruding from **at least one** of the first support surface and the second support surface wherein the bristles protrude from positions **between** the first squeegee wiping element and the second squeegee wiping element" (emphasis added) which is not disclosed in elected Fig. 1B.

Claim 27 is being withdrawn from consideration as not readable on the elected species of Figs. 1B and 5A since claim 27 recites that "the first support surface further comprises a second squeegee element protruding therefrom" which is not disclosed in elected Fig. 1B.

Similar to withdrawn claim 20 above, claim 30 is also being withdrawn from consideration as not readable on the elected species of Figs. 1B and 5A since claim 30 recites "wherein a portion of the bristles protrude from the **second** support surface" (emphasis added) which is not disclosed in elected Fig. 1B. Please refer back to claim 28, lines 9-10, which recites "bristles protruding from positions between the first squeegee wiping element and the second squeegee wiping element".

Claim Objections

2. Claims 1, 12, 26 and 33 are objected to because of the following informalities:

In claim 1, what is the structural relationship between the "elongated walls" (line 7) of the squeegee element and the "opposed sides" (line 13). The claim should be clear as to this matter. **The same objection holds for claim 12.**

Claim 1, line 8, before "curved", insert --a--.

Claim 26, on line 9, which "curved wiping edge" is being referred to here?

Claim 33, line 8, "first supports" should read --first support--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 25 is rejected under 35 U.S.C. 102(e) as being anticipated by Braun 2004/0154112 (hereinafter Braun '112).

At the outset, Braun '112 is **still deemed to qualify as prior art** as Applicant does not receive the benefit of the 01/10/2003 priority date of Provisional Application No. 60/439,317. Provisional Application No. 60/439,317 does not provide any support for that disclosed in **electd Figs. 1B and 5A, particularly, Fig. 1B (namely, counter-**

rotating sections where a first wiping region surrounds the second wiping region). Fig. 4A of provisional Application No. 60/439,317 does not teach this arrangement.

Braun '112 discloses with respect to claim 25 in the Fig. 1 embodiment, for example, a device comprising a cleaning head comprising a first support surface defined by head 16 with a "first wiping region" defined just by the bristles 18 and a second support surface with a "second wiping region" defined by cup member 20, wherein the "first wiping region" surrounds the "second wiping region" 20 and the first support surface and the second support surface are configured to "move automatically" (**paragraph [0030]**), wherein at least one of the "first wiping region" and the "second wiping region" comprises a squeegee element formed by cup member 20 with elongated walls that protrude to form a top wiping edge (Fig. 1) and at least one of the "first wiping region" and the "second wiping region" comprises bristles 18. Bristles can also perform a "wiping" function. Clearly, **any** element(s) supporting the cup member 20 can be considered a "support surface" (**paragraph [0030]**).

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 25 and 26 are rejected under 35 U.S.C. 102(a) as being anticipated by Eliav 2003/0196283 (hereinafter Eliav '283).

With respect to claim 25, Eliav '283 teaches, for example, in Figs. 4A-4C a device comprising a cleaning head comprising a first support surface defined by the **two peripheral parts** of platform 134 with a "first wiping region" and a second support

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surface defined by **middle** part of platform 134, wherein the first wiping region “surrounds” the second wiping region and the first support surface and the second support surface are configured to move automatically, wherein at least one of the first wiping region and the second wiping region comprises a squeegee element 340 with elongated walls that protrude to form a top wiping edge and at least one of the first wiping region and the second wiping region comprises bristles 152. Bristles can also broadly perform a “wiping” function.

As well as claim 26 is understood, Eliav '283 teaches, for example, in Figs. 6a-9 a cleaning head comprising a first support surface (i.e., the left part of platform 134 in Figs. 6a and 9) with a first squeegee element 340 with a curved elongated wiping edge and curved elongated walls and bristles 152 protruding therefrom, a second support surface (i.e., the right part of platform 134 in Figs. 6a and 9) that is “separate” from the first support surface, the second support surface having a first squeegee element 340 with a curved elongated wiping edge and curved elongated walls and bristles 152 also protruding therefrom, wherein a portion of the bristles protruding from the first support surface and the second support surface border the curved wiping edge, and means to couple the cleaning head to “a motorized handle” that automatically moves the first support surface relative to the second support surface (at groove 330). Note, groove 330 (Fig. 9) is deemed to “separate” the first support surface from the second support surface. Also, “a motorized handle” (lines 10-11) has never been positively recited to carry out the recited automatic function of moving the first support surface relative to the second support surface.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 31 is rejected under 35 U.S.C. 102(b) as being anticipated by Blasi 3,195,537 (hereinafter Blasi '537).

Blasi '537 teaches an electric toothbrush 2 in Figs. 1, 3 and 4 with a cleaning head 6, the cleaning head 6 comprising bristles 114 (which can **substitute** for resilient members 114 as recited in col. 3, lines 21-22) protruding from a "first region" and a "second region" that is "separate" from the first region and having a continuous and substantially circular squeegee element 113, 113, 113, etc. that encircles a portion of the "second region" (note the "second region" is merely being defined by the area **confined within** the "first region"), wherein the second region is coupled to a drive mechanism for automatically rotating or oscillating the second region and wherein the bristles 114 surround at least a portion of the continuous and substantially circular squeegee element, and wherein the first region is configured to rotate or oscillate. Note, claim 31 never requires that the first region and the second region move independently and/or separately from one another.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blasi '537 in view of Touchstone 1,993,763 (hereinafter Touchstone '763).

Blasi '537 discloses all of the recited subject matter with the exception of there being bristles protruding from the portion of the second region that is encircled by the continuous squeegee element. It would have been obvious to one of ordinary skill to have modified the Blasi cleaning arrangement such that there are bristles protruding from the portion of the second region that is encircled by the continuous squeegee element as taught by Touchstone '763 for varying the cleaning configuration and concentrating bristle scrubbing power on an area of a tooth.

9. Claims 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blaustein 2002/0152564 (hereinafter Blaustein '564) in view of Eliav '283.

Blaustein '564 teaches a device in Figs. 13 and 14 comprising a cleaning head 316, the cleaning head comprising a first support surface (at moving portion 320) with a first "squeegee" element defined by massaging tip 325 configured to treat a working surface, the first support surface being configured to move (paragraph [0105]), a second support surface (at either static portion 322) with a second "squeegee" element defined by massaging tip 327 configured to simultaneously treat the working surface, and bristles (certain ones of bristles 324, 326) protruding from positions between the first squeegee wiping element 325 and the second squeegee wiping element 327 and wherein at least one of the first support surface and the second support surface is

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configured to automatically move (i.e., moving portion or first support surface 320) independently and separately of the other of the first support surface and the second support surface, while the cleaning head is coupled to "a motorized handle" (never positively recited). Blaustein '564 teaches all of the recited subject matter with the exception of the first squeegee element and the second squeegee element including opposed walls that form first and second elongated and continuous wiping edges, respectively. Eliav '283 teaches the concept of providing for "bristles" or tooth care elements 152 that could alternatively be either elastomeric massaging fingers or walls of linear or serpentine configuration (paragraph [0052]). It would have been obvious to one of ordinary skill in the art to have simply modified Blaustein's squeegee wiping elements such that they are in the form of elements (i.e., linear or serpentine shaped) with opposed walls that form an elongated and continuous wiping edge as suggested by Eliav '283 for the purpose of improving the whitening ability of the squeegee elements on the teeth.

As for claim 29, a portion of the bristles would protrude from the first support surface 320.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claim 33 is rejected under 35 U.S.C. 102(e) as being anticipated by Braun 2004/0154112 (hereinafter Braun '112).

Braun '112 teaches in the Fig. 10 embodiment an electric toothbrush with a cleaning head, the cleaning head 912 comprising a first region with a first support surface having a continuous and substantially circular squeegee element (since it's textured and resilient and can be foam, for example as recited in paragraph [0045]) that encircles nubs or bristles 924 protruding from the first support surface and wherein the first support surface is configured to rotate or oscillate (since it can also be spun independently about its own or long axis as taught in paragraph [0030]), and a second region with a second support surface configured to automatically move independently from the first support surface, the second support surface having at least one of a squeegee, bristle tufts and nodules protruding therefrom as clearly shown in Fig. 10.

Allowable Subject Matter

11. Claims 1, 2, 4, 6, 12, 14, 16 and 19 are allowed pending clarification of the above objections.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randall Chin whose telephone number is (571) 272-1270. The examiner can normally be reached on Monday through Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Randall Chin', is positioned above the printed name.

Randall Chin
Primary Examiner
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